

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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EDWARD STEWART,	:	
Plaintiff,	:	
	:	
v.	:	Civil No. 2:20-cv-00776-JMG
	:	
DAVID FELDMAN, <i>et al.</i> ,	:	
Defendants.	:	

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**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION  
TO DISMISS THE COMPLAINT**

**AND NOW**, this 4<sup>th</sup> day of May, 2020, upon consideration of the Complaint (Doc. 1), Defendants' Motion to Dismiss Plaintiff's Complaint (Doc. 2), Plaintiff's Response to Defendant's Motion to Dismiss (Doc. 8), Defendants' Sur Reply Plaintiff's Response to Motion to Dismiss (Doc. 9), and of the Order dated March 3, 2020, reassigning the above-captioned action to the Undersigned, *see* Doc. 7, **IT IS HEREBY ORDERED THAT:**

Defendant's Motions to Dismiss Counts I, III, V, and VI are DENIED; and

Defendant's Motions to Dismiss Counts II, IV, and VII are GRANTED.

Plaintiff's Count VII is dismissed without prejudice. The Court grants Plaintiff leave to file an amended complaint within thirty (30) days of the entry of this Order.<sup>1</sup>

BY THE COURT:

/s/ John M. Gallagher  
JOHN M. GALLAGHER  
United States District Court Judge

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<sup>1</sup> When a plaintiff fails to state a claim for relief, the Court will permit a curative amendment, so long as it would not be inequitable or futile. Philips v. Cty. of Allegheny, 515 F.3d 224, 245 (3d Cir. 2008).